

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL ACTION FILE
	)	
JAVIER VILLAREAL and	)	NUMBER 1:12-cr-330-TCB
ELDER CAMACHO,	)	
	)	
Defendants.	)	

**ORDER**

This case is currently before the Court on Magistrate Judge Walker's Report and Recommendation (the "R&R") [68], which recommends that Defendants' motions to suppress evidence from wiretaps [34, 50] be denied.

Following the filing of the R&R, Defendant Javier Villareal entered a guilty plea and is awaiting sentencing. Accordingly, the Court DENIES AS MOOT Villareal's pending pretrial motions and motion to adopt the objections to the R&R filed in another case [71] and DEEMS MOOT the R&R with respect to Villareal. *See United States v. Damiani*, No. 1:10-cr-519-AT, 2012 WL 983726, at \*1 (N.D. Ga. Mar. 20, 2012).

Defendant Elder Camacho has not filed objections to the R&R. A district judge has a duty to conduct a “careful and complete” review of a magistrate judge’s R&R. *Williams v. Wainwright*, 681 F.2d 732, 732 (11th Cir. 1982) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 408 (5th Cir. 1982)).<sup>1</sup> Where no objection to the R&R is made, it need only be reviewed for clear error. *Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006).<sup>2</sup> After conducting a complete and careful review of the R&R, the district judge may accept, reject or modify the magistrate judge’s findings and recommendations. 28 U.S.C. § 636(b)(1)(C); *Williams*, 681 F.2d at 732. The district judge may also receive further evidence or recommit the matter to the magistrate judge with instructions. 28 U.S.C. § 636(b)(1)(C).

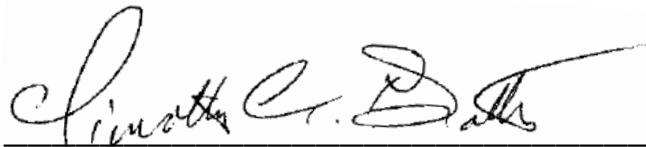
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<sup>1</sup> The Eleventh Circuit has adopted as binding precedent all Fifth Circuit decisions issued before October 1, 1981, as well as all decisions issued after that date by the Unit B panel of the former Fifth Circuit. *Stein v. Reynolds Sec., Inc.*, 667 F.2d 33, 34 (11th Cir. 1982); *see also United States v. Schultz*, 565 F.3d 1353, 1361 n.4 (11th Cir. 2009) (discussing continuing validity of *Nettles*).

<sup>2</sup> *Macort* addressed only the standard of review applied to a magistrate judge’s factual findings; however, the Supreme Court has held that there is no reason for the district court to apply a different standard of review to a magistrate judge’s legal conclusions. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Thus, district courts in this circuit have routinely applied a clear-error standard to both. *See Tauber v. Barnhart*, 438 F. Supp. 2d 1366, 1373-74 (N.D. Ga. 2006) (collecting cases). By contrast, the standard of review on appeal distinguishes between the factual findings and legal conclusions. *See Monroe v. Thigpen*, 932 F.2d 1437, 1440 (11th Cir. 1991) (when magistrate judge’s findings of fact are adopted by district court without objection, they are reviewed on appeal under plain-error standard, but questions of law remain subject to de novo review).

The Court has carefully reviewed the R&R and finds no plain error in its factual or legal conclusions. Therefore, the Court ADOPTS AS ITS ORDER the R&R [68] with respect to Camacho. Camacho's motion to suppress [50] is DENIED.

IT IS SO ORDERED this 12th day of August, 2013.

A handwritten signature in black ink, appearing to read "Timothy C. Batten, Sr.", written over a horizontal line.

Timothy C. Batten, Sr.  
United States District Judge